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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,716	06/05/2006	Zoubair Mohammed Cherkaoui	Q94723	8574
23373 7590 11/26/2010 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER WU, SHEAN CHIU				
ART UNIT		PAPER NUMBER		
1722				
NOTIFICATION DATE		DELIVERY MODE		
11/26/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/581,716

Applicant(s)

CHERKAQI ET AL.

Examiner

Shean C. Wu

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,12-21,23 and 29-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,12-21,23 and 29-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

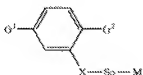
Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21, 23, 29-35 and 46 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over WO 0055110 or equivalent US 6,733,690.

The reference discloses a novel liquid crystal compound represented by formula



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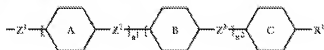
wherein

G^1 and G^2 independently represent a polymerisable mesogenic residue;

X represents a group selected from $-\text{CH}_2-$, $-\text{O}-$, $-\text{CO}-$, $-\text{COO}-$, $-\text{OOC}-$, $-\text{CONR}'-$, $-\text{OCONR}'-$, and $-\text{OCONR}'-$;

Sp represents a group of the formula $-(\text{CH}_2)_p-$ in which p is an integer of 1 to 18 and in which one or two non adjacent $-\text{CH}_2-$ groups are optionally replaced by $-\text{CH}=\text{CH}-$; or in which one or two $-\text{CH}_2-$ groups are optionally replaced by one or two groups selected from the group consisting of $-\text{O}-$, $-\text{CO}-$, $-\text{COO}-$, $-\text{OOC}-$, $-\text{CONR}'-$, $-\text{OCONR}'-$, and $-\text{OCONR}'-$ with the proviso that firstly the spacer group does not contain two adjacent heteroatoms and secondly when X is $-\text{CH}_2-$, p can also have a value of 0; and

M represents an achiral group of formula (II)



in which

A and B independently represent an optionally substituted six membered isocyclic or heterocyclic group or naphthalenediyl;

C is selected from the group consisting of an optionally substituted five and six membered isocyclic or heterocyclic group or naphthalenediyl;

n^1 and n^2 are 0 or 1 with the proviso that firstly $1 \leq n^1 + n^2 \leq 2$ and secondly, when C is naphthalenediyl $0 \leq n^1 + n^2 \leq 2$;

Z^1 is selected from the group consisting of $-\text{O}-$, $-\text{COO}-$, $-\text{OOC}-$, $-\text{CO}-$, $-\text{CONR}'-$, $-\text{NR}'\text{CO}-$, $-\text{OCONR}'-$, $-\text{OCONR}'-$, and a single bond;

in which

R' is selected from the group consisting of hydrogen, a lower achiral alkyl group and a lower achiral alkenyl group;

Z^2 and Z^3 are independently selected from the group consisting of single bond, $-\text{COO}-$, $-\text{OOC}-$, $-\text{CH}_2-\text{CH}_2-$, $-\text{CH}_2\text{O}-$, $-\text{OCH}_2-$, $-\text{CH}=\text{CH}-$, $-\text{C}\equiv\text{C}-$, $-(\text{CH}_2)_d-$ and $-(\text{CH}_2)_d\text{O}-$; and

R² is selected from the group consisting of —CN, —COR, —COOR, —OCOR, —CONR'R, —NR'COR, —OCOR, —OCONR', —NR'COOR, —F, —Cl, —CF₃, —OCF₃, —OR and —R

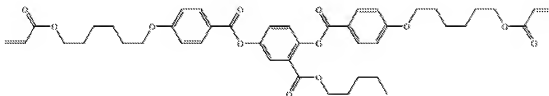
in which

R is selected from the group consisting of hydrogen, an achiral C_{1-18} alkyl group and an achiral C_{4-18} alkenyl group with the double bond at 3-position or higher; and

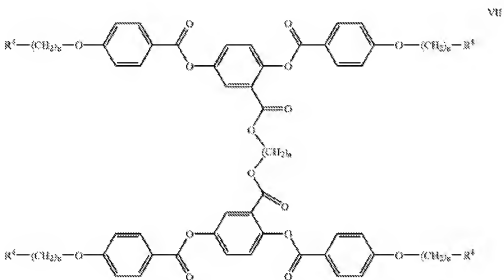
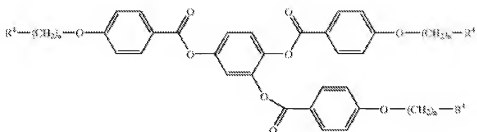
R' is as defined above:

with the proviso that at most one of the rings A, B and C is a naphthalenediyl group.

The reference compounds of formula I are compatible with other mesogenic molecular. The reference compound (similar the present additive 8, the only slightly different in alkyl-chain) shown below in Example 3 is useful as curable liquid crystals and for preparing liquid crystal films.



The compounds above can be further crosslinked as following:



Also, the reference examples similar to the present additives are all encompassed by the present formula (I). At least first compound shown in the reference example 3 inherently anticipates the claimed compound of formula (I). If not anticipated, it would have been obvious to those skilled in the art to modify the length of alkylene chain of the reference example 3 to arrive at the claimed compound.

3. Claims 1, 3-6, 12-20 and 36-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 0055110 or equivalent US 6,733,690 above cited.

The reference teaching has previously set forth in section above. The reference further the polymerizable compounds are useful as curable liquid crystals and for preparing liquid crystal films and **optical** devices. The reference further discloses that the film comprises the mixture containing a liquid crystal host and at least one chiral and achiral additive. The reference differs from the present claims in that the claimed mixtures have additives with transition temperature 20 °C or lower from liquid crystal state to the isotropic state. Although the present mixtures are not exemplified by the reference, it would have been obvious to those skilled in the art to utilize the reference compounds having similar structure of the present additives to arrive at the claimed invention.

Response to Arguments

4. Applicant's arguments filed 9/13/10 have been fully considered but they are not persuasive. Applicant's attention is directed to the first compound disclosed in the reference example 3, which is encompassed by the present formula (I) and has similar structure to the present additive No. 8. The claim recites using an old structure and the "use" is directed to a result or property of that structure, then the claim is anticipated (In re May, 574 F.2d 1082,1090, 197 USPQ 601, 607 (CCPA 1978)). Also, the discovery of a new use for an old structure based on unknown properties of the structure might be patentable to the discoverer as a process of using (In re Hack, 245 F.2d 246, 248, 114 USPQ 161, 163 (CCPA 1957)). Applicants also

argued that the reference mixtures have higher transition temperature. The examiner agrees such statement. However, the claimed compound (claim 21) has lower transition temperature, not a mixture. The claimed compound is an additive of claimed mixture. There are no evidences to show that the present additive No. 8 has lower transition temperature than the reference example 3. Therefore, the rejections in the previous Office action are still maintained.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shean C. Wu whose telephone number is 571-272-1393. The examiner can normally be reached on 10:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kelly Cynthia can be reached on 571-272-1526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shean C Wu/
Primary Examiner, Art Unit 1722

scw